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Attorney for Defendants
Charles Hsin and Optech Limited

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

Civil No. 07-4762-PJH

v.

CHARLES CATHCART, SCOTT
CATHCART, YURIJ DEBEVC, a/k/a
YURI DEBEVC, ROBERT NAGY,
DERIVUM CAPITAL (USA), INC.,
VERIDIA SOLUTIONS, OPTECH
LIMITED, CHIHSIU HSIN, a/k/a
CHARLES HSIN, FRANKLIN
THOMASON

Defendants.

**EX PARTE APPLICATION AND
ORDER EXTENDING TIME
FOR DEFENDANTS CHARLES
HSIN AND OPTECH LIMITED
TO ANSWER OR OTHERWISE
RESPOND TO PLAINTIFF'S
COMPLAINT; AND
DECLARATIONS OF EDWARD
O.C. ORD AND JENNY LIN-
ALVA IN SUPPORT THEREOF**

Pursuant to FRCP 6(b), Defendants Charles Hsin and Optech Limited, ("Defendants") hereby apply to the Court on an *ex parte* basis for an Order extending Defendants Charles Hsin and Optech Limited's time to answer or otherwise respond to Plaintiff's complaint. Defendants' response to Plaintiff's complaint is currently due on June 30, 2008, which takes into account a stipulated

1 extension previously agreed to by the parties. Due to an unusual set of
2 circumstances set out in the joint declaration below, Defendants seek a further
3 extension of time until July 15, 2008, to answer or otherwise respond to
4 Plaintiff's Complaint.

5 This application is brought on an *ex parte* basis due to that fact that if heard
6 on a regularly noticed basis, it would not be heard until on or after the due date
7 for Defendants' responsive pleading.

8 Per FRCP 6(b), the "good cause" for this application is as follows. Under
9 penalty of perjury, the undersigned counsel states:

10 1. Counsel continues to operate on limited authority to seek an extension of
11 time only, as counsel and the clients are waiting for a conflicts clearance and
12 letters.

13 2. Ethics counsel was on vacation. Counsel has returned. However, ethics
14 counsel has requested and is now waiting for additional facts and information.
15 Ethics counsel cannot give a time or an answer on the waiver until he receives
16 this information and evidence and considers all of it. Some information has been
17 provided while the balance is currently in the process of being finalized and will
18 be delivered to the ethics counsel by next Tuesday. There will not be enough
19 time to allow Counsel to prepare answers (including affirmative defenses) and/or
20 motions under the limited authority counsel has been given due to conflicts.

21 3. This tax injunction case is very complex and eventual counsel of record
22 may prepare and file motions prior to filing any answer.

23 4. The current situation will prejudice the moving defendants with respect to
24 motion and answer.

25 5. There is another individual defendant, Frank Thomason that, to my
26 knowledge, has not been served. The undersigned may be in a position to
27 represent Mr. Thomason and we are awaiting a response. If this effort is
28

1 successful, in the long run, time of all involved will be saved by having the
2 undersigned represent all three defendants.

3 6. The undersigned wrote two letters to government counsel Allyson Baker.
4 The undersigned never received any answer.

5 7. Counsel's associate, Jenny Lin-Alva, attempted to reach Ms. Baker two
6 times today at approximately 10:50 a.m. and 11:20 a.m. without success. About
7 or around 2:30 p.m., Ms. Baker returned Ms. Lin-Alva's calls. Ms. Baker
8 indicated that she had been traveling all week and did not see the letters our office
9 sent her. She indicated that she would agree to an extension past June 30 but not
10 to July 15 because it was uncertain whether Counsel's clients would seek
11 additional extensions. Ms. Baker could not discuss this subject in more detail due
12 to the fact that she was about to depart from Grand Central Station and could not
13 hear Ms. Lin-Alva very well. Ms. Baker assured Ms. Lin-Alva that she would
14 agree to an extension past June 30. However, no specific date was agreed to. Ms.
15 Baker indicated that the two offices should discuss this subject in more detail on
16 Tuesday, June 24, 2008. Ms. Lin-Alva indicated to Ms. Baker that our office
17 would be filing a motion to seek an extension today given the rules of this Court
18 requiring a motion be filed 10 days in advance. Ms. Baker indicated that a
19 motion today was not necessary since she was agreeing to an extension beyond
20 June 30.

21 8. Due to the rules of this Court requiring a motion to seek an extension to be
22 filed 10 days prior to the date the answer is due, the undersigned is filing this
23 motion protectively pending discussion with Ms. Baker on June 24, 2008.

24 9. Undersigned counsel hereby certifies that this application is made in good
25 faith and for good cause.

26

27

28

1 WHEREFORE, THE MOVING DEFENDANTS RESPECTFULLY REQUEST
2 THE COURT TO GRANT THE REQUESTED EXTENSION TO JULY 15,
3 2008.

4 I declare under penalty of perjury that the foregoing is true and correct.

5 Dated: June 20, 2008

Dated: June 20, 2008

6
7 ORD & NORMAN

8
9 By _____/S/
10 Edward O.C. Ord, Esq.
11 Attorney for Defendants
Charles Hsin and Optech Limited

By _____/S/
Jenny Lin-Alva, Esq.
Counsel's Associate
Ord & Norman

12
13
14 **ORDER**

15 Having considered Defendants' Charles Hsin and Optech Limited
16 ("Defendants") *ex parte* application for an extension of time for Defendants to
17 answer or otherwise respond to Plaintiff's complaint, and finding good cause
18 therefore,

19 IT IS HEREBY ORDERED that Defendant have to and including [July 15,
20 2008] [_____, 2008] by with to file such pleading.

21
22 Dated: _____

23
24 _____
25 United States District Judge
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Joseph P. Russoniello
United States Attorney
Thomas Moore
Assistant United States Attorney
Chief, Tax Division
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333 Sacramento Street
San Francisco, California 94111
Attorney for Defendant Scott Cathcart

I further certify that on June 20, 2008, service of the foregoing was made upon the following by depositing a copy in the United States mail, postage prepaid:

Yuri Debevc (*pro se*)
1483 Burningtree Road
Charleston, SC 29412

/s/ Edward O. Ord
EDWARD O. ORD